



EXECUTIVE ORDER NO. 85

CONSOLIDATION AND REORGANIZATION OF EXECUTIVE BRANCH AGENCIES TO IMPROVE THE EFFICIENCY OF STATE GOVERNMENT

WHEREAS, the North Carolina Constitution gives the Governor the power to submit to the General Assembly changes, elimination, consolidation and reorganization of the powers, duties and functions of the agencies and departments within the Executive Branch of State Government whenever the Governor determines that such action is in the best interest of the State; and

WHEREAS, a principal reason for exercising this power is to ensure that State government services are delivered in an effective and coordinated way; and

WHEREAS, the Governor has the responsibility to spend tax dollars wisely and efficiently; and

WHEREAS, I have determined that the State of North Carolina is in a time of economic challenge, such that the way State Government has operated must change in order to continue to deliver critical services to North Carolina citizens.

NOW, THEREFORE, pursuant to the powers conferred on me as Governor by Article III, Section 5(10) of the Constitution and the laws of North Carolina, as a first step in the process of reorganizing State Government, **IT IS ORDERED:**

The Executive Branch of State Government is hereby consolidated and reorganized as provided herein.

Section 1. Use of Terms

For purposes of this Executive Order, the terms "Type I Transfer" and "Type II Transfer" shall have the meaning prescribed by the General Assembly in the Executive Organization Act of 1971, N.C. Gen. Stat. § 143A-6, and the terms "Agency," "Board," "Commission," "Committee," "Council," "Division," "Head of Department," and "Principal State Department" shall have the meaning prescribed by the General Assembly in the Executive Organization Act of 1973, N.C. Gen. Stat. § 143B-3.

Section 2. Applicability to Departments and Agencies

This Executive Order is applicable to the following departments and agencies: the Department of Administration, the Department of Commerce, the Department of Correction, the Department of Crime Control and Public Safety, the Department of Cultural Resources, the Department of Environment and Natural Resources, the Department of Health and Human Services, the Department of Juvenile Justice and Delinquency Prevention, the Department of Revenue, the Department of Transportation, the Office of State Personnel, the Office of State Budget and Management, the Office of Information Technology Services, and the Employment Security Commission.

Section 3. Statutes Remain in Effect

Except as herein expressly modified, the provisions of Chapters 143, 143A and 143B of the North Carolina General Statutes remain in force.

Section 4. Department of Management and Administration

The Office of State Personnel and the Office of Information Technology Services are hereby consolidated into the Department of Administration. The Department of Administration, as established by N.C. Gen. Stat. § 143B-366, is hereby renamed the Department of Management and Administration. All powers, duties, functions and obligations heretofore vested in the former Department of Administration, and any subunit or division of the former Department of Administration, are hereby vested in the Department of Management and Administration. All references in the General Statutes or laws of the State to the “Department of Administration” are hereby deleted and replaced with the “Department of Management and Administration.” All references to the “Secretary of Administration” in the General Statutes or laws of the State are hereby deleted and replaced with the “Secretary of Management and Administration.” This Executive Order shall not affect any contract, agreement or other obligation of or obligation owed to the former Department of Administration. Where the former Department of Administration or a division or other subunit of the former Department of Administration is referred to by law or by a contract or other document, that reference is hereby deemed to apply to the Department of Management and Administration.

- a. The Office of State Personnel, as established by N.C. Gen. Stat. § 126-3, is transferred to the Department of Management and Administration by a Type I transfer. All powers, duties and functions of the Office of State Personnel as specified in N.C. Gen. Stat. Chapter 126 and as specified elsewhere in the laws of this State are transferred to the Department of Management and Administration. All powers and duties of the Office of State Personnel specifically enumerated in N.C. Gen. Stat. § 126-3 are added to those powers and duties of the Department of Management and Administration specified in N.C. Gen. Stat. § 143-341. All references in the General Statutes or laws of the State to the “Office of State Personnel” are hereby deleted and replaced with the “Department of Management and Administration.” All references in the General Statutes or laws of the State to the “State Personnel Director” are hereby deleted and replaced with the

“Secretary of Management and Administration or the Secretary’s designee.” This Executive Order shall not affect any contract, agreement or other obligation of or obligation owed to the former Office of State Personnel. Where the former Office of State Personnel or a division or other subunit of the former Office of State Personnel is referred to by law or by a contract or other document, that reference is hereby deemed to apply to the Department of Management and Administration. State employees currently employed by and under the supervision of the former State Personnel Director and the former Office of State Personnel are hereby transferred to the supervision of the Secretary of Management and Administration. Additionally, to ensure the consistent application of human resource policies and practices, the human resource functions within the Cabinet State Agencies will be centralized within the Department of Management and Administration. All human resources positions, professional development/training positions, and safety officer positions, and all related administrative support positions and budgets, will be transferred to the supervision of the Secretary of Management and Administration. The Department of Management and Administration, in conjunction with the Office of State Budget and Management, will review such agency positions to determine which positions will be transferred to the Department of Management and Administration. Transfers of positions pursuant to this Order shall not affect any individual employee’s current compensation or benefits.

- b. The Office of Information Technology Services, as established by N.C. Gen. Stat. Chapter 147, Article 3D, is hereby transferred to the Department of Management and Administration by a Type I transfer. All powers, duties and functions of the Office of Information Technology Services as specified in N.C. Gen. Stat. Chapter 147, Article 3D and as specified elsewhere in the laws of this State are transferred to the Department of Management and Administration. All powers and duties of the Office of Information Technology Services specifically enumerated in N.C. Gen. Stat. §§ 147-33.82 and 147-33.83 are added to those powers and duties of the Department of Management and Administration specified in N.C. Gen. Stat. § 143-341. All references in the General Statutes or laws of the State to the “Office of Information Technology” are hereby deleted and replaced with the “Department of Management and Administration.” All references in the General Statutes or laws of the State to the “State Chief Information Officer” are hereby deleted and replaced with the “Secretary of Management and Administration or the Secretary’s designee.” This Executive Order shall not affect any contract, agreement or other obligation of or obligation owed to the former Office of Information Technology Services. Where the former Office of Information Technology Services or a division or other subunit of the former Office of Information Technology Services is referred to by law or by a contract or other document, that reference is hereby deemed to apply to the Department of Management and Administration. State employees currently employed by and under the supervision of the former State Chief Information Officer and the former Office of Information Technology Services are hereby transferred to the supervision of the Secretary of Management and Administration. Additionally, all employees within the Cabinet State Agencies who serve in the position of or exercise the responsibility of Chief Information Officer are hereby transferred to the supervision of the Secretary of Management and Administration. Transfers of positions pursuant to this Order shall not affect any individual employee’s current compensation or benefits.

- c. All commissions, boards, councils, committees or other similar entities established under or administratively housed in the Office of State Personnel or the Office of Information Technology Services are hereby transferred to the Department of Management and Administration. Such entities shall continue to exercise their authority and power as currently provided in the laws of the State.
- d. The Codifier of Rules shall reorganize the North Carolina Administrative Code, including specifically Titles 1, 9 and 25, to reflect the aforementioned consolidation of the former Department of Administration, the former Office of State Personnel, and the former Office of Information Technology Services into the Department of Management and Administration. The Codifier of Rules shall make changes in the text of any affected rules to reflect changes in the organizational structure of the Department of Management and Administration. The changes by the Codifier are exempt from the requirements of Chapter 150B of the General Statutes and do not require the review or approval of the Rules Review Commission.

Section 5. Department of Public Safety

There is hereby established and created a principal department to be known as the Department of Public Safety. Any reference in the General Statutes or laws of the State to the “principal departments” as enumerated in N.C. Gen. Stat. § 143B-6 or to “cabinet agencies” or “cabinet departments” is hereby deemed to include the Department of Public Safety. The Department of Correction, the Department of Juvenile Justice and Delinquency Prevention, and the Department of Crime Control and Public Safety are hereby consolidated into the Department of Public Safety. The Department of Public Safety shall be headed by the Secretary of Public Safety, who shall be appointed by and serve at the pleasure of the Governor. The Department of Public Safety shall include, but not be limited to, the following three divisions: the Division of Corrections, the Division of Juvenile Justice and Delinquency Prevention, and the Division of Crime Control and Emergency Management.

- a. The Department of Correction, as established in N.C. Gen. Stat. § 143B-260, is hereby transferred to the Department of Public Safety by a Type I transfer. All powers, duties and functions of the Department of Correction and any subunit or division of the Department of Correction as specified in N.C. Gen. Stat. Chapter 143B, Article 6 and as specified elsewhere in the laws of this State are transferred to the Department of Public Safety. All references in the General Statutes or laws of the State to the “Department of Correction” are hereby deleted and replaced with the “Department of Public Safety Division of Corrections.” All references in the General Statutes or laws of the State to the “Secretary of Correction” are hereby deleted and replaced with the “Secretary of Public Safety or the Secretary’s designee.” The Secretary of Public Safety shall designate a Commissioner of Corrections who shall be exempt from the State Personnel Act under N.C. Gen. Stat. § 126-5(c1) and who shall oversee those functions formerly housed in the Department of Correction, as assigned by the Secretary. This Executive Order shall not affect any contract, agreement or other obligation of or obligation owed to the former Department of Correction. Where the former Department of Correction or a

division or other subunit of the former Department of Correction is referred to by law or by a contract or other document, that reference is hereby deemed to apply to the Department of Public Safety. State employees currently employed by and under the supervision of the former Secretary of Correction and the former Department of Correction are hereby transferred to the supervision of the Secretary of Public Safety. Transfers of positions pursuant to this Order shall not affect any individual employee's current compensation or benefits.

- b. The Department of Juvenile Justice and Delinquency Prevention, as established by N.C. Gen. Stat. § 143B-511, is hereby transferred to the Department of Public Safety by a Type I transfer. All powers, duties and functions of the Department of Juvenile Justice and Delinquency Prevention as specified in N.C. Gen. Stat. Chapter 143B, Article 12 and as specified elsewhere in the laws of this State are transferred to the Department of Public Safety. All references in the General Statutes or laws of the State to the "Department of Juvenile Justice and Delinquency Prevention" are hereby deleted and replaced with the "Department of Public Safety Division of Juvenile Justice and Delinquency Prevention." All references in the General Statutes or laws of the State to the "Secretary of Juvenile Justice and Delinquency Prevention" are hereby deleted and replaced with the "Secretary of Public Safety or the Secretary's designee." The Secretary of Public Safety shall designate a Commissioner of Juvenile Justice and Delinquency Prevention who shall be exempt from the State Personnel Act under N.C. Gen. Stat. § 126-5(c1) and who shall oversee those functions formerly housed in the Department of Juvenile Justice and Delinquency Prevention, as assigned by the Secretary. Notwithstanding any other laws to the contrary, the legal custody and control of confidential juvenile records, as provided in N.C. Gen. Stat. Chapter 7B, shall belong to the Commissioner of Juvenile Justice and Delinquency Prevention, and the Commissioner shall exercise such control independent of the Secretary of Public Safety. This Executive Order shall not affect any contract, agreement or other obligation of or obligation owed to the former Department of Juvenile Justice and Delinquency Prevention. Where the former Department of Juvenile Justice and Delinquency Prevention or a division or other subunit of the former Department of Juvenile Justice and Delinquency Prevention is referred to by law or by a contract or other document, that reference is hereby deemed to apply to the Department of Public Safety. State employees currently employed by and under the supervision of the former Secretary of Juvenile Justice and Delinquency Prevention and the former Department of Juvenile Justice and Delinquency Prevention are hereby transferred to the supervision of the Secretary of Public Safety. Transfers of positions pursuant to this Order shall not affect any individual employee's current compensation or benefits.
- c. The Department of Crime Control and Public Safety, as established by N.C. Gen. Stat. § 143B-473, is hereby transferred to the Department of Public Safety by a Type I transfer. All powers, duties and functions of the Department of Crime Control and Public Safety as specified in N.C. Gen. Stat. Chapter 143B, Article 11 and as specified elsewhere in the laws of this State are transferred to the Department of Public Safety. All references in the General Statutes or laws of the State to the "Department of Crime Control and Public Safety" are hereby deleted and replaced with the "Department of Public Safety Division of Crime Control and Emergency Management." All references in the General Statutes

or laws of the State to the “Secretary of Crime Control and Public Safety” are hereby deleted and replaced with the “Secretary of Public Safety or the Secretary’s designee.” The Secretary of Public Safety shall designate a Commissioner of Crime Control and Emergency Management who shall be exempt from the State Personnel Act under N.C. Gen. Stat. § 126-5(c1) and who shall oversee those functions formerly housed in the Department of Crime Control and Public Safety, as assigned by the Secretary. This Executive Order shall not affect any contract, agreement or other obligation of or obligation owed to the former Department of Crime Control and Public Safety. Where the former Department of Crime Control and Public Safety or a division or other subunit of the former Department of Crime Control and Public Safety is referred to by law or by a contract or other document, that reference is hereby deemed to apply to the Department of Public Safety. State employees currently employed by and under the supervision of the former Secretary of Crime Control and Public Safety and the former Department of Crime Control and Public Safety are hereby transferred to the supervision of the Secretary of Public Safety. Transfers of positions pursuant to this Order shall not affect any individual employee’s current compensation or benefits.

- d. All commissions, boards, councils, committees or other similar entities established under or administratively housed in the former Department of Correction, the former Department of Juvenile Justice and Delinquency Prevention, or the former Department of Crime Control and Public Safety are hereby transferred to the Department of Public Safety. Such entities shall continue to exercise their authority and power as currently provided in the laws of the State.
- e. The Codifier of Rules shall reorganize the North Carolina Administrative Code, including specifically Titles 5, 14A and 28, to reflect the organization of the Department of Public Safety and the elimination of the former Department of Correction, the former Department of Juvenile Justice and Delinquency Prevention, and the former Department of Crime Control and Public Safety. The Codifier of Rules shall make changes in the text of any affected rules to reflect changes in the organizational structure of the Department of Public Safety. The changes by the Codifier are exempt from the requirements of Chapter 150B of the General Statutes and do not require the review or approval of the Rules Review Commission.
- f. Notwithstanding the provisions of N.C. Gen. Stat. § 126-5(d)(1), the Department of Public Safety may designate exempt managerial positions in a number up to one percent (1%) of the total number of full-time positions in the department, not to exceed 90 positions in the department.

Section 6. Department of Commerce

- a. The Unemployment Insurance Division of the Employment Security Commission, as established or operated pursuant to N.C. Gen. Stat. § 96-3(b) and N.C. Gen. Stat. Chapter 96, Article 2, is hereby transferred to the Department of Commerce by a Type I transfer. All powers, duties and functions related to the Unemployment Insurance Division as specified in N.C. Gen. Stat. Chapter 96 and as specified elsewhere in the laws of this

State are transferred to the Department of Commerce. Provided, however, that the policymaking or adjudicative functions of the Employment Security Commission related to the Unemployment Insurance Division shall not be transferred to the Department of Commerce, but shall remain with the Employment Security Commission.

- b. The Employment Service Division, the Labor Market Information Division, and all other divisions or subunits of the Employment Security Commission, established or operated pursuant to N.C. Gen. Stat. § 96-3(b) and N.C. Gen. Stat. Chapter 96, Articles 1, 3 and 4, except for the Office of Chief Counsel and all attorneys and support staff housed under that office, are hereby transferred to the Department of Commerce by a Type I transfer. All powers, duties and functions of these divisions as specified in N.C. Gen. Stat. Chapter 96 and as specified elsewhere in the laws of this State are transferred to the Department of Commerce. Such changes shall not be reflected in the General Statutes, except for those instances where the General Statutes specifically address a division or office that is modified by this Executive Order.
- c. All references in the General Statutes and laws of the State to the “Employment Security Commission” regarding the aforementioned divisions and subunits are hereby deleted and replaced with the “Department of Commerce,” except if such references address the policymaking or adjudicative duties of the Employment Security Commission. All references in the General Statutes and laws of the State to the “Chair of the Employment Security Commission” regarding the aforementioned divisions and subunits are hereby deleted and replaced with the “Secretary of Commerce or the Secretary’s designee,” except if such references address the policymaking or adjudicative duties of the Chair of the Employment Security Commission. State employees currently employed by and under the supervision of the Employment Security Commission, except those attorneys and support staff in the Office of Chief Counsel, are hereby transferred to the supervision of the Secretary of Commerce. Transfers of positions pursuant to this Order shall not affect any individual employee’s current compensation or benefits.
- d. The Employment Security Commission, as established by N.C. Gen. Stat. § 96-3, and the Office of Chief Counsel, including all attorneys and support staff housed under that office, are hereby transferred to the Department of Commerce by a Type II transfer with all the elements of a Type II transfer. Except as otherwise provided in Sections 6.a, 6.b, and 6.c of this Executive Order and except for those management functions that shall be performed under the direction and supervision of the Secretary of Commerce pursuant to N.C. Gen. Stat. § 143A-6, the Commission shall exercise all its prescribed statutory powers independently of the Secretary of Commerce.
- e. This Executive Order shall not affect any contract, agreement or other obligation of the Employment Security Commission. In any contract, agreement or other obligation of the Unemployment Insurance Division, the Employment Service Division, the Labor Market Information Division or any other division or subunit of the Employment Security Commission, except the Office of Chief Counsel, any references to the Employment Security Commission are hereby deemed to apply to the Department of Commerce.

- f. The Employment Security Commission shall review its regulations and shall make changes in the text of any regulations to reflect changes in the organizational structure of the Employment Security Commission as provided in this Executive Order.

Section 7. Department of Health and Human Services

I hereby direct the Secretary of Health and Human Services to consolidate and reorganize the divisions of the Department of Health and Human Services. Such changes shall not be reflected in the General Statutes, except for those instances where the General Statutes specifically address a division or office that is modified by the consolidation and reorganization.

- a. The Division of Public Health and the Office of Rural Health and Community Care are hereby consolidated into the Division of Prevention, Access and Public Health Services. All references to the “Division of Public Health” or the “Office of Rural Health and Community Care” are hereby deleted and replaced with the “Division of Prevention, Access and Public Health Services.” This Executive Order shall not affect any contract, agreement or other obligation of or obligation owed to the former Division of Public Health or the former office of Rural Health and Community Care. Where the former Division of Public Health or the former Office of Rural Health and Community Care is referred to by law or by a contract or other document, the reference is hereby deemed to apply to the Division of Prevention, Access and Public Health Services.
- b. The Division of Vocational Rehabilitation, the Division of Services for the Blind, and the Division of Services for the Deaf and Hard of Hearing are hereby consolidated into the Division of Blind, Deaf/Hard of Hearing and Rehabilitation Services. All references to the “Division of Vocational Rehabilitation,” the “Division of Services for the Blind,” or the “Division of Services for the Deaf and Hard of Hearing” are hereby deleted and replaced with the “Division of Blind, Deaf/Hard of Hearing and Rehabilitation Services.” This Executive Order shall not affect any contract, agreement or other obligation of or obligation owed to the former Division of Vocational Rehabilitation, the former Division of Services for the Blind, or the former Division of Services for the Deaf and Hard of Hearing. Where the former Division of Vocational Rehabilitation, the former Division of Services for the Blind, or the former Division of Services for the Deaf and Hard of Hearing is referred to by law or by a contract or other document, the reference is hereby deemed to apply to the Division of Blind, Deaf/Hard of Hearing and Rehabilitation Services.
- c. The Office of Long-Term Care Services and Supports and the Office of Housing and Homelessness are hereby consolidated into the Division of Aging and Adult Services. All references to the “Office of Long-Term Care Services and Supports” or the “Office of Housing and Homelessness” are hereby deleted and replaced with the “Division of Aging and Adult Services.” This Executive Order shall not affect any contract, agreement or other obligation of or obligation owed to the former Office of Long-Term Care Services and Supports or the former Office of Housing and Homelessness. Where the former Office of Long-Term Care Services and Supports or the former Office of Housing and

Homelessness is referred to by law or by a contract or other document, the reference is hereby deemed to apply to the Division of Aging and Adult Services.

- d. The Codifier of Rules shall reorganize the North Carolina Administrative Code, including specifically Title 10A, to reflect the reorganization of the Department of Health and Human Services. The Codifier of Rules shall make changes in the text of any affected rules to reflect changes in the organizational structure of the Department of Health and Human Services. The changes by the Codifier are exempt from the requirements of Chapter 150B of the General Statutes and do not require the review or approval of the Rules Review Commission.

Section 8. Department of Transportation

- a. The North Carolina State Ports Authority, as established by N.C. Gen. Stat. § 143B-452, is hereby transferred from the Department of Commerce to the Department of Transportation by a Type II transfer. Except for those management functions that shall be performed under the direction and supervision of the Secretary of Transportation pursuant to N.C. Gen. Stat. § 143A-6, the Ports Authority shall exercise all its prescribed statutory powers independently of the Secretary of Transportation. All references in Chapter 143B, Article 10, Part 10 of the General Statutes to the “Department of Commerce” are hereby deleted and replaced with the “Department of Transportation.” All references in Chapter 143B, Article 10, Part 10 of the General Statutes to the “Secretary of Commerce” are hereby deleted and replaced with the “Secretary of Transportation.” This Executive Order shall not affect any contract, agreement or other obligation of or obligation owed to the North Carolina State Ports Authority. Where the Department of Commerce is referred to by law or by a contract or other document related to the North Carolina State Ports Authority, the reference is hereby deemed to apply to the Department of Transportation.
- b. The State Transportation Logistics Coordinating Council is hereby established. The Council shall be located administratively within, and shall exercise its powers within existing resources of, the Department of Transportation. The Council shall consist of the Secretary of Transportation, who shall serve as Chair, the Executive Director of the North Carolina Global TransPark, the Chief Executive Director of the North Carolina State Ports Authority, the President of the North Carolina Railroad Company, and other persons as determined necessary by the Secretary. The Council shall identify areas for cooperation among the State’s transportation logistics entities, including improving the State’s transportation services, coordinating on projects to create or expand companies in North Carolina or to attract companies to the State, and sharing of personnel and resources to the maximum extent practicable.

Section 9. Authority of Secretaries of Departments

Nothing in this Executive Order is intended to limit the ability of the department secretaries to organize and manage their departments as authorized by law. To the extent that any function of

a former entity requires the exercise of exclusive or independent authority, the Secretary of the new entity shall ensure that such exclusive or independent authority is maintained.

Section 10. Implementation Flexibility and Resolution of Conflicts

This Order initiates a comprehensive, extended process requiring careful and well-managed implementation, evaluation, and assessment of the affected State departments and agencies and the services they provide to citizens. If the Governor or the Governor's designee determines that additional reorganization, consolidation, or elimination of State agencies not set forth in this Order is needed, the Governor or the Governor's designee shall have the flexibility to make such changes to the consolidation and reorganization of State Government that are beyond the scope of changes set forth in this Order, consistent with the Constitutional powers of the Governor.

Where a conflict or ambiguity arises regarding any transfer or action authorized by this Executive Order, the Governor or the Governor's designee shall resolve the matter, and the decision of the Governor or the Governor's designee shall be final.

Section 11. Effect

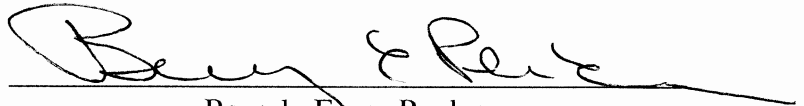
This Order will become effective and have the force of law unless specifically disapproved by either the House or Senate or specifically modified by joint resolution of the House and Senate prior to adjournment *sine die*.

Section 12. Distribution of Order

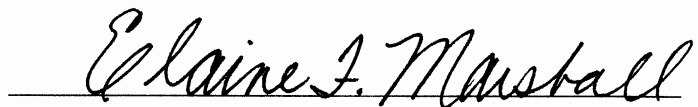
An original of this Executive Order will be delivered by hand on the day it is issued to the President of the Senate, the President Pro Tempore of the Senate, the Speaker of the House of Representatives, the Clerk of the Senate, and the Clerk of the House of Representatives.

IN WITNESS WHEREOF, I have hereunto signed my name and affixed the Great Seal of the State of North Carolina at the Capitol in the City of Raleigh, this twenty-fifth day of March in the year of our Lord two thousand and eleven, and of the Independence of the United States of America the two hundred and thirty-fifth.




Beverly Eaves Perdue
Governor

ATTEST:


Elaine F. Marshall
Secretary of State